323, sustains attachment in an action for breach of promise of marriage. On the other hand it has been held under practically the same code provision that a breach of contract of marriage was not such a contract as would support attachment. *Barnes* v. *Buck,* 1 Lansing (N. Y.) 268. In later revisions of the New York code it is specifically stated that attachment will not lie in such an action. Sec. 635 Stover's N. Y. Annotated Code of Civil procedure (1902). And the great weight of authority is against the holding in the principal case, because the remedy by attachment is generally confined to actions in which the amount the plaintiff is entitled to can be specified. But in cases like the principal one the damages are problematical. *Price* v. *Cox,* 83 N. C. 261; *Conley* v. *Creighton,* 5 Ohio Dec. 402.

BAILMENTS—LIABILITY OF PRIVATE CARRIER ON A SPECIAL CONTRACT.—Plaintiff entered into a contract with defendant corporation whereby the latter agreed to move for plaintiff certain household goods. Defendant promised to move the articles carefully and safely. One of the defendant's servants carried from plaintiff's house an oil portrait and, before putting it upon the load, leaned it against the side of a wagon which was being used in transporting the furniture. While the picture was in that position, it was struck by a small boy and injured. In this action to recover damages, *Held,* that defendant was "an ordinary bailee for hire" and not liable, the damage having been done by the wanton act of a third person. *Jaminet* v. *American Storage & Moving Co.* (1904), — Mo. —, 84 S. W. Rep. 128.

It was argued by plaintiff that the defendant had assumed, by its agreement, the liability of a common carrier, and, the lower court having sustained this contention, the principal contention of defendant, on appeal, was that the lower court had erred in so holding, in place of leaving this question for the determination of the jury. That defendant was a common carrier would seem to be shown by the following authorities: *Caye* v. *Pool's Assignee,* 108 Ky. 124, 55 S. W. 887, 49 L. R. A. 251; *Robertson & Co.* v. *Kennedy,* 2 Dana (Ky.) 430, 26 Am. Dec. 466; *Robinson* v. *Cornish,* 13 N. Y. Supp. 577; *Jackson A. Iron Works* v. *Hurlbut,* 158 N. Y. 34, 52 N. E. 665, 70 Am. St. Rep. 432; *Campbell* v. *Morse,* Harp. L. (S. C.) 300; *Farley* v. *Lavary,* 107 Ky. 523, 54 S. W. 840. But the court held this question to be of no material importance in view of the undertaking of the defendant. As to that, the position of the court was that the defendant was an ordinary bailee for hire and was liable only for the negligence or lack of skill of its servants, and that the injury of the portrait, by the boy, was not a risk which the defendant had, by its agreement, assumed. It would seem to be a not unreasonable view of the case, to assume that the servant of defendant was negligent in leaning a valuable and unprotected oil painting against a wagon on a public thoroughfare, but this question seems not to have been presented by the case. There appears to be no definite rule as to the extent to which a bailee's implied obligation to use ordinary diligence is varied by a contract to carry safely,—this seeming to be a question to be determined by the terms of the contract. But it is an established rule that a bailee may, by contract, increase his liability so as to insure against loss or damage to the bailed goods. *Rohra-*

bacher v. *Ware,* 37 Ia. 85; *Sturm* v. *Boker,* 14 Sup. Ct. Rep. 99; *Reinstein* v. *Watts,* 84 Me. 139; *Butler* v. *Greene,* 49 Neb. 280, 68 N. W. 496; *Lance* v. *Griner,* 53 Pa. St. 204. Even granting defendant to be a private carrier, it would seem that according to some holdings, he had increased his liability to that of a common carrier by his agreement to carry safely. *Powers* v. *Davenport,* 7 Blackf. (Ind.) 497, 43 Am. Dec. 100; *Fish* v. *Chapman & Ross,* 2 Ga. 349, 46 Am. Dec. 393. The court, however, attempts to distinguish the case, under discussion, from cases where private carriers had increased their liability by contract, by holding the defendant's agreement to carry safely to be nothing more than an assurance, on its part, that it would use such care and skill as one in that line of business would be expected to employ.

BAILMENTS—LOSS OF GOODS RESULTING FROM VIOLATION OF ORDINANCE.—Defendant in error sent to plaintiff in error some articles to be laundered. While in the possession of the laundry company, the articles were destroyed by fire, which entered the building of plaintiff in error through windows which were not protected by fireproof shutters, as required by city ordinance. The ordinance provided that "all brick buildings, except dwelling houses, school houses, churches, and all strictly fireproof buildings, shall have fireproof shutters on every entrance on the rear walls and courts, with openings within forty feet of each other." In this action to recover the value of the articles destroyed, *Held,* that the ordinance was intended primarily for the protection of the public and that plaintiff in error was, therefore, not liable for the loss of the goods,—the violation of the ordinance, by plaintiff in error, being of "no evidential value upon the question of negligence." *Frontier Steam Laundry Co.* v. *Connolly* (1904), — Neb. —, 101 N. W. Rep. 995.

It is frequently difficult to decide whether an ordinance is intended for the protection of individuals or for that of the public only. If the ordinance is not for the benefit of individuals, but is intended to protect only the public, a violation thereof furnishes no ground of action to a private individual as against the one charged with violating the ordinance. Redress must be had from the municipality. *Flynn* v. *Canton Co. of Baltimore,* 40 Md. 312; *Heeney* v. *Sprague,* 11 R. I. 456; *Vandyke* v. *City of Cincinnati, and Harbeson,* 1 Disney (Ohio) 532; *Taylor* v. *Lake Shore etc. R. R. Co.,* 45 Mich. 74; *Kirby* v. *Boylston Market Assn.,* 14 Gray (Mass.) 249; *Moore* v. *Gadsden,* 93 N. Y. 12. It might be observed, however, that most of the cases supporting this principle seem to be instances where action was brought against a land owner who had allowed snow or ice to accumulate in front of his premises, contrary to city ordinance, whereby passersby slipped and were injured. In the case under discussion, there was a dissenting opinion, one judge holding that the ordinance was as much applicable to individuals, in the matter of protection, as to the public as a whole. Where ordinances are for the benefit of individuals, there exists a conflict of authority as to the degree of negligence attributable to one whose violation of an ordinance has resulted in loss to another. Some cases go to the extent of holding such violation to be negligence per se. *Queen* v. *Dayton Coal and Iron Co.,* 95 Tenn. 458, 49 Am. St. Rep. 935; *Smith* v. *The Milwaukee Build. & Trad. Exchange et al.,* 91